

**Financial Institutions &
Insurance Committee**

HB 1034

Brief Description: Conducting the administrative supervision of financially distressed insurers.

Sponsors: Representatives Kirby, Roach and Simpson; by request of Insurance Commissioner.

Brief Summary of Bill

- Allows the Insurance Commissioner to place an insurer under administrative supervision under certain circumstances.

The Insurance Commissioner may order that various financial activities of an insurer can not occur without the prior approval of the administrative supervisor or the Commissioner.

Hearing Date: 1/20/05

Staff: Jon Hedegard (786-7127).

Background:

The Insurance Commissioner ("Commissioner") oversees the regulation of insurance in Washington. An important regulatory responsibility of the Commissioner is the monitoring the solvency of insurance companies and health carriers. The monitoring is achieved by the use of risk assessment formulas and various financial reporting requirements. If certain criteria are met, the Commissioner can apply for a court order for rehabilitation or liquidation of a domestic insurer (an insurer formed under the laws of Washington).

For the purpose of chapter 48.31 RCW ("Mergers, Rehabilitation, Liquidation"), "insurer" includes life insurers, disability, property insurers, casualty insurers, vehicle insurers, title insurers, surety bonding companies, insurers or companies offering charitable gift annuities.

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Summary of Bill:

The Commissioner is given the ability to place an insurer under administrative supervision. An insurer under administrative supervision is subject to greater scrutiny and may be limited in its activities unless it receives prior approval for the activity from the Insurance Commissioner or the appointed administrative supervisor.

When an Insurer may be put under Administrative Supervision

The Commissioner may place an insurer under administrative supervision if :

The continuance of the insurer's business is hazardous to the public or to its insureds; The insurer has or appears to have exceeded its powers; The insurer has failed to comply with the applicable provisions of Title 48 RCW; The business of the insurer is being conducted fraudulently; or The insurer consents.

When an Insurer exceeded its powers

An insurer has "exceeded its powers" if it: Refuses to permit examination of its books, papers, accounts, records, or affairs;

Unlawfully removes books, papers, accounts, or records necessary for an examination;

Fails to promptly comply with the applicable financial reporting statutes or rules;

Neglects or refuses to make up prohibited deficiencies in capital, capital stock, or surplus;

Transacts insurance or write business after revocation or suspension of licensure; or

Unlawfully or in violation of an order (1) totally reinsures its entire outstanding business; (2) merges or consolidates substantially its entire property or business; (3) engages in any unauthorized transaction; or (4) refuses to comply with a lawful order of the commissioner.

Impact of Administrative Supervision

The Commissioner may prevent an insurer from doing any of the following things without the prior approval of the Commissioner or the appointed supervisor: Sell or encumber any of its assets; Withdraw bank accounts; Lend funds; Invest funds; Transfer property; Incur debt, obligation, or liability; Merge or consolidate with another company; Approve new premiums or renew any policies; Enter into any new reinsurance contract or treaty;

Terminate, surrender, convert, or lapse a policy except for nonpayment of premiums;

Release, pay, or refund amounts received accrued or reserved on any insurance policy;

Make a material change in management; or

Increase salaries and benefits of officers or directors

Insurer's Right to Administrative Hearing

An insurer can contest an action of an administrative supervisor. If denied after reconsideration, the insurer can request a proceeding under chapter 48.04 and chapter 34.05 RCW.

Other Provisions

Administrative supervisors are added to the persons receiving immunity.

Exemptions from public disclosure and disclosure in civil actions are created for actions related to the administrative supervision of an insurer. The Commissioner may open proceedings or make

information public if the Commissioner deems it to be in the best interest of the insurer, its insureds or creditors, or the general public.

The Commissioner is not prevented from also beginning liquidation or rehabilitation proceedings.

The Commissioner may adopt rules to implement this act.

Appropriation: None.

Fiscal Note: Requested on January 17, 2005.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.